

COMMISSIONER OF THE REVENUE

CITY OF ROANOKE



SHERMAN A. HOLLAND
Commissioner

GREGORY S. EMERSON
Chief Deputy

April 8, 2005

Members of Roanoke City Council
Mayor, City of Roanoke
Audit Committee Members

Much has been said about the recent audit report rendered by the Internal Roanoke City Municipal Auditor. However, there are always two sides to every story, leaving oneself to rely on the integrity of the individuals presenting their side based on facts. While opinions are fine, they are merely opinions.

Taxation is an issue that most of us everyday hard working citizens do not enjoy paying. Not many that I know, including myself, like paying taxes. However, we all understand that in order to receive some of the essential services that the City provides such as Police, Fire, Water, Sewer, Refuse, etc. we realize and understand that we must pay our fair share. The Commissioner of the Revenue is an elected official that represents the citizens of the City of Roanoke and must be a spokesperson for the citizens. It is my responsibility as your Commissioner of the Revenue to insure that the citizens' best interests are considered pertaining to taxation. Without a constitutional form of governance, the City Administration can impose, assess and collect the same taxes from city residents without the citizens having any form of representation throughout the process.

Dating to ancient history there has never been a perfect method that insures that everyone files taxes. Administrators at the Federal and State levels understand this fact to the point that they implement amnesty programs to entice non-filers into compliance. Amid all of the programs in place there continues to be individuals and business that avoid taxation. Just like the IRS and Department of Taxation, we understand we will never catch everyone.

The Code of Virginia is the "golden rule" for the operation of the Commissioner of the Revenue's Office. It is the legal binding document coupled with the Report of the Attorney General that dictates, mandates, and controls the office. Tax assessments made by the Commissioner must be based on factual information that can stand the test of validity to be upheld in a court of law. While associational publications and plans can be useful tools, they are not recognized in a court of law regarding taxation. Every Commissioner of the Revenue in this Commonwealth must decide what is best for his/her respective office based on funding and available resources provided by his/her locality. Assessments must be based on verifiable facts, not opinion.

The City's internal Auditor was granted authorization by me to conduct a **system audit** of the office. There is reference to the system audit on page two (2) within the objectives section of his audit papers states... "Our specific objectives of this audit were to evaluate the system of internal controls..." Unknowing to me or my staff, a management and performance responsibility audit was conducted by him instead.

According to a 1993 Report of the Attorney General page 67, "nothing in section 15.1-167 suggests that a constitutional officer must submit to a management or performance audit by his locality. Such a requirement would be contrary to the long standing rule, as outlined in the opinions cited above, that constitutional officers are independent of their respective localities' management and control." Also a 1997 Report of the Attorney General page 48 states "A prior opinion of the Attorney General considering Section 15.1-167, as amended 1993, concludes that the statute not only implies that a county's internal auditor may not conduct a financial audit of the books and records of a Commissioner of the Revenue, but also implies that the internal auditor may not conduct a "management" or "performance" audit of a Commissioner's Office...." .

Upon further review of the report, there is not a reference to our current system that is 25-30 years old within the audit report that was submitted and discussed by the Audit Committee on April 4, 2005. However, an e-mail dated 3/28/2005 sent to me @10:47a.m. from the internal auditor states... "We did note the limited functionality of the system. It appears to us that DoT's effects will be best used to move forward with the procurement of a new system rather than modifying the existing one. This is why we limited our recommendations regarding system modifications." Since this statement represents the primary "Objectives" of the audit, it appears to me that the internal auditor's findings mentioned within the E-mail should have been included in the report. Accordingly, the audit should have ended at this point and time. Had the true scope of the audit been disclosed we would have been able to provide information during the audit to insure the audit report was correct.

At this point I would be remiss if I did not take the opportunity to advise that the Virginia Department of Taxation recently concluded an audit of the personal property records relating to the integrity of our data as part of the Car Tax Compliance legislation. The results have been verbally confirmed as "outstanding and exceptional". The official document should arrive via US Mail in 7 -14 working days.

Additionally, the latest independent "state mandated" audit of this office conducted by KPMG LLP for the year ended June 30, 2004 (report issued November 5, 2004) as to tests of compliance, reveals and states... "The results of our test of compliance disclosed no instances of noncompliance..." Please accept the fact that we have been audited by independent auditors and have documented results of audit activities as a vital part of the operation. This information combined with the following auditing and revenue statistics should be used in determining the ability of my office to function in accordance with the Law.

Numerous references were made that the Commissioner's Office was not conducting audits within its business license and personal property sections. Actual statistics regarding this issue are attached as documents 01-A through 01-H. In summary of the attachments I am able to conclude that by maintaining a documented performance level an average of 62% of all business license accounts were audited between tax years 2002-2004 (attachment 01-A). Likewise, an average of 39% of all Business Property Tax accounts were audited between tax years 2002-2004 (attachment 01-B). 2005 Personal Property Taxes are documented at a four year high comparing 2002, 2003, 2004, and 2005. (attachment 01-H). Business License revenues have experienced a steady increase during 2003, 2004 and 2005 (attachment 01-F).

I must state that I was quite shocked to read that the internal auditor stated there is possibly \$500,000.00 - \$1 million of lost revenue. Realizing that there are always possible non-filers, nonetheless, I was still amazed. Therefore, I requested copies of all working papers, documents, and materials used by the auditor during this audit. Upon review of the documents I find no mention of or totals that amount to \$500,000.00 - \$1 million dollars of lost revenue.

Even though I respect and consider all constructive opinions related to the operations of the Office, I must remain directly accountable to the citizens of this city. The criteria by which services are performed should treat everyone in a fair and consistent manner. To adopt a form of management that primarily functions on fear, harassment, and the general consensus that our citizens and businesses are dishonest would truly be a disservice to the integrity of the majority. My duty to uphold the Constitution of Virginia to the citizens of the City of Roanoke is to be firm and fair but not over intrusive. However, I still contend that audit practices followed in this office are proven, documented, effective and in compliance with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "S. A. Holland", written in a cursive style.

Sherman A. Holland
Commissioner of the Revenue

**COMMISSIONER OF THE REVENUE
2002 - 2004
BUSINESS LICENSE
AUDITS**

<u>AUDIT YEAR</u>	<u># OF BUSINESS LICENSE ISSUED</u>	<u># OF ACCOUNTS AUDITED</u>	<u>% OF ACCOUNTS AUDITED</u>
2002	6,862	4,402	64%
2003	6,918	4,481	65%
2004	7,198	4,169	58%

***Patrick and Eva conducted the car tax audit on business vehicles in 2003 and 2004.**

BUSINESS PERSONAL PROPERTY

	2004	2003	2002
Total Number of Accounts	6,845	7,268	8,348
Audits/Reviews	3,219	4,232	1,003
Percentage of BPP accounts audited/reviewed	47%	58%	12%

2004 BUSINESS LICENSE AUDITS

The following Business License audits were conducted during 2004:

- 600 2003 Schedule C's were review. 217 assessment and/or adjustments were made.
- 50 Field Inspections were conducted. This includes cigarette inspections, manufacturer inspections and regular business license inspections.
- 3,132 accounts were review using the State Sales Tax Reports.
- 309 Real Estate Agent accounts were reviewed.
- 83 Telephone Service Companies were reviewed.
- 75 accounts were reviewed during ABC Audit.
- The Business License Inspector conducted the car tax audit.

**INTERDEPARTMENTAL COMMUNICATION
CITY OF ROANOKE**

TO: Evelyn W. Powers, Treasurer

FROM: Sherman A. Holland, Commissioner of the Revenue

DATE: April 7, 2005

SUBJECT: PERSONAL PROPERTY ASSESSMENT REPORT

Attached is the **2005 original billing** book for month of April 2005.

	<u>Value</u>	<u>Levy</u>	<u>Pen/Int</u>	<u>Total</u>
Personal Property	\$595,884,454	\$20,558,083.68	\$144,814.01	\$ 20,702,897.69
Machinery & Tools	77,179,551	2,662,694.58	-0-	2,662,694.58
Mobile Homes	1,300,260	15,733.23	4.07	15,737.30
Airplanes	8,109,621	85,961.97	307.25	86,269.22
Omitted Personal Property	-0-	-0-	-0-	-0-
Omitted Machinery & Tool	-0-	-0-	-0-	-0-
Omitted Mobile Homes	-0-	-0-	-0-	-0-
Total Assessment	\$682,473,886	\$23,322,473.46	\$145,125.33	\$ 23,467,598.79

Tax Relief: \$7,888,639.07

cc: Jesse Hall, Director, Department of Finance
Sharon Shrewsbury, Account Technician

Charges to Levy	<u>Regular Levy</u>	<u>Tax Relief</u>
	\$15,578,959.72	\$7,888,639.07

* Working Paper of Business Personal property analysis
conducted by the Commission of the Revenue

	REG "2" ASSESSED VALUE	M&T "5" ASSESSED VALUE	TOTAL COST
2003	\$162,235,660	\$77,506,558	\$796,847,367
2004	\$162,612,042	\$83,860,059	\$826,378,668
Difference	\$376,382	\$6,353,501	\$29,531,301

7,250 - 2003
6,900 - 2004
Total #
of Business
Property accounts

* "300+" Cleanup job
conducted in 2004

- Business personal property worksheet
summary of totals assessed.

Note: * indicates that assessments of tax value
increased from 2003-2004 in both Machinery & Tools
and
Business property

Key ^{fact.} → While at the same time the total # of
accounts decreased, (2003-2004)
years

Results → "Clean-up and audits increased revenue and cleaned up database."

**BUSINESS LICENSE TOTALS
JANUARY - MARCH
2003, 2004, & 2005**

1. Total taxes assessed for 2003:

January 2003	\$ 750,018.39
February 2003	\$ 5,317,695.84
March 2003	<u>\$ 4,448,896.09</u>
Total for 2003	\$10,516,610.32

2. Total taxes assessed for 2004:

January 2004	\$ 588,389.76
February 2004	\$ 5,434,033.48
March 2004	<u>\$ 4,523,379.96</u>
Total for 2004	\$10,545,803.20

3. Total taxes assessed for 2005:

January 2005	\$ 819,392.21
February 2005	\$ 4,203,318.68
March 2005	<u>\$ 6,085,841.74</u>
Total for 2005	\$11,108,552.05

Attachment 01-G

Drew
Harmon/City_of_Roanoke
03/28/2005 10:47 AM

To Sherman
Holland/Employees/City_of_Roanoke@City_of_Roanoke
cc Gregory
Emerson/Employees/City_of_Roanoke@City_of_Roanoke
bcc
Subject Audit Report

Good morning Sherman:

As you probably know, we will be putting together packets for the Audit Committee members on Wednesday, March 30, for the April 4 Committee meeting. I was hoping to meet with you and / or Greg last week to discuss the action plans in the report and make sure they were viable.

In my discussions with Greg, I think we agreed that a business plan would be the best means to evaluate current staffing and funding. The absence of such a plan made it impossible for us to conclude with any certainty that additional audit staff was needed. We compared our staffing with other cities and the data did not support a conclusion that we were understaffed. If we had a business plan in place, and we had the tax compliance auditors following a well-developed audit program, I think we could make a determination very quickly on staffing.

We did note the limited functionality of the system. It appears to us that DoT's efforts will be best used to move forward with the procurement of a new system rather than modifying the existing one. This is why we limited our recommendations regarding system modifications.

I think we all agreed the DMV report should be run weekly, without interruption. This has been stated in the report as a recommendation.

I feel confident that we all agree on the action plans, however, if you do have changes please let me know as soon as possible, and no later than Tuesday afternoon. We will work with you to revise the action plans in any way we can, as long as it is supported by adequate authoritative literature. If we can't agree on the changes, we will revise the report format to replace "Action Plans" with "Audit Recommendations" and "Management Responses".

Regardless of the format used, we also offer management the option of including their comments with the audit report. If you have additional information that provides context to any of the issues noted in the report, please provide those in a memo from you to the Audit Committee and we will attach the memo to the report.

Please give me a call if you would like to meet today or tomorrow to discuss the report.

Thanks.

Drew

Drew Harmon, CPA, CIA
Municipal Auditor
City of Roanoke, Virginia
Ph: 540-853-2644

A Heckman 01-14

**City of Roanoke
Commissioner of the Revenue**

Personal Property Billing Book - Comparison Chart of Assessed Values

	2002	2003	2004	2005
Individual Billing	\$314,574,388	\$321,847,072	\$304,246,328	\$339,322,886
Business Billing	259,269,887	243,415,417	241,539,227	266,681,279
M&T Billing	89,015,009	82,629,588	82,875,752	77,212,152
TOTAL	\$662,859,284	\$647,892,077	\$628,661,307	\$683,216,317*

*2005 includes supplemental and statutory assessments not included in original Billing Book.

Drew
Harmon/City_of_Roanoke
03/28/2005 10:47 AM

To Sherman
Holland/Employees/City_of_Roanoke@City_of_Roanoke
cc Gregory
Emerson/Employees/City_of_Roanoke@City_of_Roanoke
bcc
Subject Audit Report

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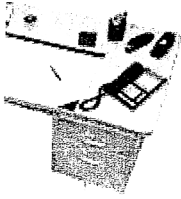
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Thanks.

Drew

Drew Harmon, CPA, CIA
Municipal Auditor
City of Roanoke, Virginia
Ph: 540-853-2644



Gregory
Emerson/Employees/City_of
_Roanoke

03/30/2005 10:30 AM

To Sherman
Holland/Employees/City_of_Roanoke@City_of_Roanoke
cc

bcc

Subject Fw: Audit Report

Greg Emerson
Chief Deputy Commissioner
gregory.emerson@roanokeva.gov
(540)853-2524 offc

----- Forwarded by Gregory Emerson/Employees/City_of_Roanoke on 03/30/2005 10:31 AM -----

Drew
Harmon/City_of_Roanoke
03/29/2005 05:19 PM

To Gregory
Emerson/Employees/City_of_Roanoke@City_of_Roanoke
cc

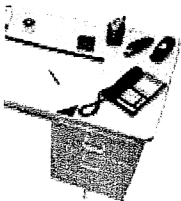
Subject Re: Audit Report []

Greg:

We are available to meet with you tomorrow.

Drew

Gregory Emerson/Employees/City_of_Roanoke



Gregory
Emerson/Employees/City_of
_Roanoke

03/29/2005 03:25 PM

To Drew Harmon/City_of_Roanoke@City_of_Roanoke
cc

Subject Re: Audit Report []

Sherman had to leave. I will check with him and get back with you ASAP.

Greg Emerson
Chief Deputy Commissioner
gregory.emerson@roanokeva.gov
(540)853-2524 offc

Drew
Harmon/City_of_Roanoke
03/30/2005 12:38 PM

To Sherman
Holland/Employees/City_of_Roanoke@City_of_Roanoke
cc Gregory
Emerson/Employees/City_of_Roanoke@City_of_Roanoke,
Mike Tuck/Employees/City_of_Roanoke@City_of_Roanoke
bcc
Subject Audit Report

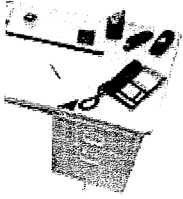
Sherman:

After consulting with Mike Tuck and reviewing the work papers and draft report once again, I have decided to issue the report as it currently reads. The only change will be the retitling of "action plans" as "recommendations". If you can provide a written management response / comments by 10:00 am tomorrow [Thursday], we will attach your document to our report. In this way, we can ensure that the report is in the Clerk's office by noon tomorrow.

We of course will meet with you at any time you would like to discuss the audit work, provide our perspective, and answer any questions you may have. I hope the reference material we provided to you has been helpful. We also have a local government manager's guide to internal controls that might be helpful to you. We also have several books on developing procedures if you would like to borrow them.

Drew

Drew Harmon, CPA, CIA
Municipal Auditor
City of Roanoke, Virginia
Ph: 540-853-2644



Gregory
Emerson/Employees/City_of
_Roanoke

03/30/2005 02:15 PM

To Drew Harmon/City_of_Roanoke@City_of_Roanoke

cc Sherman

Holland/Employees/City_of_Roanoke@City_of_Roanoke

bcc

Subject Re: Audit Report□

Drew is there some particular reason this report has to go tomorrow without us having the opportunity to discuss the details with you? Please advise.

Greg Emerson
Chief Deputy Commissioner
gregory.emerson@roanokeva.gov
(540)853-2524 offc

Drew
Harmon/City_of_Roanoke
03/30/2005 04:01 PM

To Gregory
Emerson/Employees/City_of_Roanoke@City_of_Roanoke
cc Sherman
Holland/Employees/City_of_Roanoke@City_of_Roanoke
bcc
Subject Re: Audit Report□

Greg:

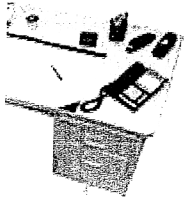
There has been considerable time that has elapsed on this audit. It's been over a year since we had our opening meeting. The issues in the report have been thoroughly documented and reviewed with you and Sherman. Because the audit issues deal with fundamental components of the tax compliance system [ie., business plan, audit procedures, audit programs, performance measures] there is not a lot to discuss; you either have them or you don't. The same can be said of the recommendations, since we are suggesting that you develop a business plan, audit procedures, etc.

If you have identified errors in the report, please let me know. You have had the report for 10 days now, with several messages from us asking for your thoughts. The standards that we follow [government auditing standards] require reports to be issued timely and not arbitrarily delayed. We finally reached the point at which we had to make a decision as to whether the report was accurate and ready for public release or not. We feel confident that the findings in the report are well supported and accurate, so we have no reason to delay it. The City Clerk's deadline is tomorrow at 1:00 pm and we feel we have to meet that deadline.

We will be glad to provide any support we can as you work to develop your processes.

Drew

Drew Harmon, CPA, CIA
Municipal Auditor
City of Roanoke, Virginia
Ph: 540-853-2644



Gregory
Emerson/Employees/City_of
_Roanoke

03/30/2005 04:42 PM

To Drew Harmon/City_of_Roanoke@City_of_Roanoke

cc Sherman

Holland/Employees/City_of_Roanoke@City_of_Roanoke

bcc

Subject Re: Audit Report

Based on the fact that we have been cooperative for over 12 months and also cooperative to adjust our schedules during peak season I dont quite understand that we (Commissioner's Office) allow this process to carry on over 12 months yet we are not granted the courtesy of one week to schedule to get together. I know we would much rather have the opportunity to discuss options to modify the report draft rather than to provide additional documents.

Greg Emerson

Chief Deputy Commissioner

gregory.emerson@roanokeva.gov

(540)853-2524 offc

¹⁵ A prior opinion of the Attorney General considering § 15.1-167, as amended in 1993, concludes that the statute not only implies that a county's internal auditor may not conduct a financial audit of the books and records of a commissioner of the revenue, but also implies that the internal auditor may not conduct a "management" or "performance" audit of a commissioner's office. See 1993 Op. Va. Att'y Gen., *supra* note 6, at 67. (§ 15.1-167(A) implies that annual audits of constitutional officers are to be conducted by independent public accountant and makes no exception for management or performance audits; statute limiting thing to be done in particular manner or by prescribed person implies that it shall not be done otherwise or by different person).

¹⁶ See § 58.1-3.1 (regarding authority of commissioner of revenue to make information available to certified public accountant).

COUNTIES, CITIES AND TOWNS: BUILDINGS, MONUMENTS AND LANDS GENERALLY — PLANNING,
SUBDIVISION OF LAND AND ZONING.